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8 UNITED STATES DISTRICT COURT
9 FOR THE EASTERN DISTRICT OF CALIFORNIA
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11 HEIDI KELLERHALS,

12 Plaintiff,

13 v.

14 MAIRA RUELAS, et al.,

15 Defendants.
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No. 1:20-cv-01279-EPG

ORDER GRANTING MOTION FOR
VOLUNTARY DISMISSAL

(ECF No. 34)

17 On April 14, 2021, Plaintiff Heidi Kellerhals filed a notice of voluntary dismissal. (ECF
18 No. 34). Plaintiff's filing was not signed by all parties, and Defendants Maira Ruelas Brennan
19 Gonzalez and Tulare County ("Defendants") had already filed an answer. Therefore, on April 15,
20 2021, the Court treated the filing as a motion for a voluntary dismissal under Federal Rule of
21 Civil Procedure 41(a)(2). (ECF No. 35). The Court ordered Defendants to respond to the motion
22 within fourteen days or for the parties to file a stipulated motion to dismiss under Federal Rule of
23 Civil Procedure 41(a)(1). (*Id.* at 2).

24 More than fourteen days have elapsed and Defendants have not filed a response, nor have
25 the parties filed a stipulation to dismiss. Accordingly, the Court construes Plaintiff's motion as
26 unopposed. *See* E.D. Cal. Local Rule 230(c) ("A failure to file a timely opposition may also be
27 construed by the Court as a non-opposition to the motion.").

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1 A Rule 41(a)(2) motion for voluntarily dismissal “is addressed to the district court's sound
2 discretion.” *Stevedoring Serv. of Am. v. Armilla Intern. B.V.*, 889 F.2d 919, 921 (9th Cir.1989).
3 “A district court should grant a motion for voluntary dismissal under Rule 41(a)(2) unless a
4 defendant can show that it will suffer some plain legal prejudice as a result.” *Smith v. Lenches*,
5 263 F.3d 972, 975 (9th Cir.2001). “[L]egal prejudice’ means ‘prejudice to some legal interest,
6 some legal claim, some legal argument.’” *Id.* at 976 (quoting *Westlands Water Dist. v. United*
7 *States*, 100 F.3d 94, 97 (9th Cir.1996)).

8 Here, Defendant has not filed a timely opposition to the motion indicating it does not
9 believe it will suffer any legal prejudice despite the Court’s order, and the Court has construed
10 this failure as Defendants’ non-opposition to the motion. Therefore, the Court grants Plaintiff’s
11 motion for a voluntary dismissal.

12 Accordingly, IT IS HEREBY ORDERED that this action is DISMISSED, WITH
13 PREJUDICE. The Clerk of Court is respectfully directed to close this case.

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15 IT IS SO ORDERED.

16 Dated: May 7, 2021

17 /s/ Eric P. Gray
18 UNITED STATES MAGISTRATE JUDGE
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